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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/659,514

09/10/2003

Frank Tuccio

1016-013P/JAB

3616

22831

7590

06/16/2006

SCHWEITZER CORNMAN GROSS & BONDELL LLP  
292 MADISON AVENUE - 19th FLOOR  
NEW YORK, NY 10017

EXAMINER

MEHRPOUR, NAGHMEH

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/659,514

Applicant(s)

TUCCIO, FRANK

Examiner

Naghmeh Mehrpour

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13, are rejected under 35 U.S.C. 103(a) as being unpatentable over Harney (US Patent 5,579,124) in view of Peiffer et al. (US publication 2004/0210922 A1).

Regarding claims 1, 7, Harney teaches an apparatus for the remote monitoring of audio signals, comprising:

a portable transponder (col 1 lines 40-65). Harney fails to teach a fixed receiver for detecting an audio signal present in a monitored region and determining an identity of the audio signal detected, for determining an identity of the portable receiver when the receiver is present in the monitored region, and for associating the identity of the receiver with the identity of the audio signal detected over a dwell time of the transponder in the monitored region. However, Peiffer teaches a fixed receiver for detecting an audio signal present in a monitored region and determining an identity of the audio signal detected, for determining an identity of the portable receiver when the receiver is present in the monitored region, and for associating the identity of

the receiver with the identity of the audio signal detected over a dwell time of the transponder in the monitored region (0034-0036, 0039). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Peiffer with Harney, in order to process received digital audio signals, transmitted through a wide variety of media, to ensure accurate recognition.

Regarding claims 2, 9, Harney inherently teaches an apparatus/system wherein the transponder is a transponder carried by an individual (col 1 lines 40-67, col 2 lines 1-7).

Regarding claims 3, 10, Harney does not mention an apparatus/system wherein the fixed receiver includes a microphone circuit for detecting the audio signal. However, Peiffer teaches an apparatus/system wherein the fixed receiver includes a microphone circuit for detecting the audio signal (0048). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Peiffer with Harney, in order to process received digital audio signals, transmitted through a wide variety of media, to ensure accurate recognition.

Regarding claim 4, Harney an apparatus of claim 1, wherein the fixed receiver includes means for storing the association between the identities of the receiver and audio signal (col 1 lines 40-65).

Regarding claims 5, 12, Harney teaches an apparatus wherein the audio signal is the audio portion of a received radio or television broadcast (col 1 lines 40-67, col 2 lines 1-20).

Regarding claim 6, Harney teaches a method for the remote monitoring of audio signals, comprising the steps of:

- monitoring a designated region for the presence of an audio signal (col 2 lines 21-39).

Henry fails to teach processing an audio signal to determine its identity;

- simultaneously monitoring the region for the presence of a transponder;

- identifying the transponder and its dwell time within the region and the identity of the audio signal, and the dwell time in the region; and

- generating a record correlating the transponder, its dwell time, and the identity of the audio signal. However Peiffer teaches processing an audio signal to determine its identity;

- simultaneously monitoring the region for the presence of a transponder;

- identifying the transponder and its dwell time within the region and the identity of the audio signal, and the dwell time in the region; and

- generating a record correlating the transponder, its dwell time, and the identity of the audio signal (015-0019). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Peiffer with Harney, in order to process received digital audio signals, transmitted through a wide variety of media, to ensure accurate recognition.

Regarding claim 8, Harney teaches an apparatus wherein at least the means for detecting an audio signal and determining an identity is at a fixed location (col 2 lines 7-67, col 3 lines 1-8).

Regarding claim 11, Harney fails to teach an apparatus of claim 8, further including means for storing the record at the fixed location. However Peiffer teaches an apparatus of claim 8, further including means for storing the record at the fixed location (0018, 0019). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Peiffer with Harney, in order to process received digital audio signals, transmitted through a wide variety of media, to ensure accurate recognition.

Regarding claim 13, Harney fails to teach an apparatus of claim 7 comprising means associated with the means for determining the identity of the transponder for causing the transponder to emit an identification signal only when in the monitored region. However Peiffer teaches an apparatus of claim 7 comprising means associated with the means for determining the identity of the transponder for causing the transponder to emit an identification signal only when in the monitored region (0018-0019). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Peiffer with Harney, in order to process received digital audio signals, transmitted through a wide variety of media, to ensure accurate recognition.

### **Conclusion**

3. **Any responses to this action should be mailed to:**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naghmeh Mehrpour whose telephone number is 571-272-7913.

The examiner can normally be reached on 8:00- 6:00.

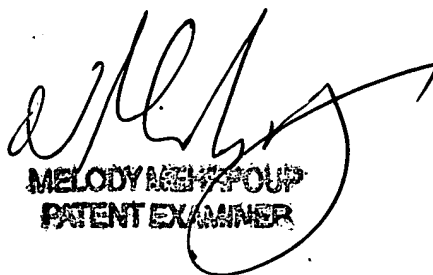
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold be reached (571) 272-7905.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NM

June 12, 2006



MELODY MEHROUPOUR  
PATENT EXAMINER